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ALEXANDER L. STEVAS,
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No. 84-844

In the Supreme Court of the United States

OCTOBER TERM, 1984

HOME PLACEMENT SERVICE, INC.,
PETITIONER,

v.

PROVIDENCE JOURNAL COMPANY,
RESPONDENT.

Supplemental Appendix to Petition for Writ of Certiorari to the United States Court of Appeals for the First Circuit

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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF RHODE ISLAND

HOME PLACEMENT SERVICE, INC.
and JOSEPH P. MUSCHIANO,
Plaintiffs

v. C. A. No. 77-158/S

PROVIDENCE JOURNAL COMPANY,
Defendant

ORDER

This matter came on for hearing on Defendant's Motion for Entry of Judgment, the parties having submitted memoranda of law and presented oral argument on May 9 and May 11, 1983, and the Court having been fully advised in the premises, and upon consideration thereof,

It is hereby **ORDERED,** as follows:

1. There shall be no new trial on the issue of damages. The Court will pass upon the damage issue on the record as constituted during the original trial. The reference in footnote 8 of the Opinion of the Circuit Court of Appeals to the question of "waiver" was a shorthand reference to a putative failure of proof.

2. The parties may submit briefs as to whether or not the evidence in the record supports a claim for damages and, if so, the amount of damages that should be found; the question of "waiver" (sufficiency of the damage evidence) shall be determined by the Court. The parties shall submit proposed findings of fact and conclusions of law on the issue of damages on or before June 24, 1983.

3. The parties may undertake, on or before June 9, 1983, such discovery by way of depositions, demands for produc-

tion or interrogatories as they desire, addressed strictly and solely to issues germane as to whether or not injunctive relief should issue; and they shall submit briefs as to the questions appertaining to injunctive relief on or before June 24, 1983; *provided, however,* that such discovery shall be, and is hereby, stayed until after disposition by the Court of Appeals for the First Circuit of plaintiff's proposed petition for clarification of its mandate *and* until further order of this Court.

4. The parties may request a further evidentiary hearing on the question of injunctive relief, setting forth not only the request for the further evidentiary hearing, but the reasons in support of it, having in mind that the Court prefers evidence adduced by discovery, rather than an actual evidentiary hearing.

5. The issue of counsel fees is deferred.

6. Defendant's motion for entry of judgment as framed is denied without prejudice but is treated as a motion for a determination of the issues raised.

ENTERED as the Order of Court this 12th day of May, 1983.

_____
Clerk of Court

ENTER:

Attest to
True Copy
FREDERICK R. DeCESARIS
Clerk/Magistrate

_____
United States District Judge

By _____
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 81-1783

HOME PLACEMENT SERVICE, INC. et al.,
Plaintiffs, Appellants,

v,

THE PROVIDENCE JOURNAL COMPANY,
Defendant, Appellee.

Before
Aldrich, Coffin and Bownes,
Circuit Judges.

MEMORANDUM AND ORDER
Entered: June 16, 1983

Per Curiam. The court grants plaintiffs' motion for clarification. In response, not to plaintiffs' question as phrased on page 9 thereof, but, more generally, to what the court meant,

1. The district court was entirely correct in observing that we did not order a new trial.

2. The court was essentially correct in considering plaintiffs "waived" any damage evidence that could reasonably have been discovered and was not offered. Basically plaintiffs must stand on the record.

3. Plaintiffs, however, could not be regarded as waiving evidence only thereafter available, and, since the delay was occasioned by defendant, plaintiffs should be the ones to benefit, if there be such.

Nothing herein shall prevent the court from requiring any such new evidence to be presented by offer of proof, deposition, etc., as it may determine.

By the Court,

Clerk.